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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,006	08/17/2004	Jack Klootz	10885.3802	5005
22235	7590	06/14/2005	EXAMINER	
MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			LE, KHANH H	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/711,006

Applicant(s)

KLOOTZ, JACK

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lagerway et al. (US Patent No. 5,774,271) in view of Lehrer (US Patent No. 6,604,847 B2)

4. With respect to claim 1, Lagerway teaches a surgical headlight system having a housing (fig. 3, item 32), a lens assembly (item 70), a fiber optic rod (cable, item 19), a light path (optical axis, item 41), but did not teach the use of the power source and the LED light source. Lehrer teaches a portable reading light device that use LED as the light source (fig 4, item 33) and an electrical power source (fig 8, item 52) is less expensive to make because it does not use fiber optic cable. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to

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use the LED light source of Lehrer for the for the surgical headlight of Lagerway so that it would cost less to produce.

5. With respect to claim 2, Lagerway's surgical headlight system has a means (fig. 3, item 38) to attach the surgical headlight system to the headband to be worn by a surgeon.

6. With respect to claim 3, Lagerway did not teach to use LED in the surgical headlight system. Lehrer teaches to use white light LED in the surgical headlight system. LED could emitted light color temperature about 7000K, whereas incandescent can produce light color temperature at 3200K and less desirable than LED (col. 6, line 23- 26). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use the white light LED of Lehrer for the for the surgical headlight of Lagerway so that the LED would emitted white light with the color temperature at about 7000K which is more desirable for surgical procedures than orange colored light with temperature at 3200K of incandescent.

7. With respect to claim 4, Lagerway's surgical headlight system has a mirror (fig. 3, item 60) mounted in the light path.

8. With respect to claim 5, Lagerway teaches a surgical headlight system having a housing (fig. 3, item 32), an opening for emitting light (lens, item 72), an optical light path (optical axis, item 41), and light transmission elements (items 40, 42, 44, and 72), but did not teach the use of the LED light source. Lehrer teaches a portable light device that use LED as the light source (fig 4, item 33) is less expensive to make because it does not use fiber optic cable. It would have been obvious to one having ordinary skill

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in the art at the time of the invention was made to use the LED light source of Lehrer for the surgical headlight of Lagerway so that it would cost less to produce.

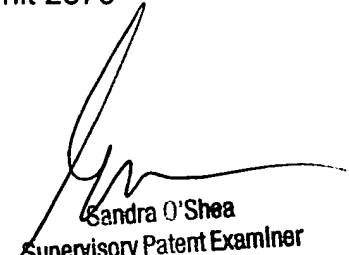
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is (571) 272-8325. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KHL

Khanh H Le  
Examiner  
Art Unit 2875



Sandra O'Shea  
Supervisory Patent Examiner  
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